IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Fellenstein	) Serial No.: 10/626,194
	)
Applicant,	) Docket No.: AUS920030365US1
	)
For: Method and System for Identification and	) Art Unit: 2109
Presentation of Statistical Usage Data for	)
Messaging Systems	) Confirmation Number: 1807
	)
	)
	) Examiner: Fearer
Filed: 07/24/2003	)

RESPONSE TO NOTIFICATION OF NON COMPLIANT APPEAL BRIEF DATED MARCH 17, 2008

April 3, 2008

Ms Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief dated March 17, 2008, please replace Appeal Brief section V (summary of claimed subject matter) with the following section V (pages 2-4 of this paper). Appellant believes this amendment places the Appeal Brief into compliance with 37 C.F.R. § 41.37. Specifically, this Amendment adds references to the figures for the subject matter summaries for claims 1, 11, and 21. Therefore, Appellant respectfully requests reconsideration of the Appeal Brief.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1

Claim 1 is to a programmable apparatus for identifying optimal times for an end user to contact a target user of a messaging system (Specification 6:1-7:20). The programmable apparatus comprises: an event monitor (FIG. 2, element 230; Specification 6:22-7:14) to detect messaging system events (e.g., FIG. 3, element 310; Specification 7:21-8:13) and to record (FIG. 3, element 350; Specification 7:21-8:13) the messaging system events in a database (FIG. 3, element 360; Specification 3:7-8; 7:21-9:4); a usage processor (FIGS. 3 and 5, element 240; Specification 9:5-10:8) to compile (FIG. 5, element 450; Specification 9:5-10:8) statistical usage data (e.g., the data illustrated in FIG. 4; see Specification 8:14-8:4) from the events in the database (FIG. 3, element 360; Specification 3:8; 9:5-10:8); and a usage indicator (FIG. 2, element 250) to display the target user's statistical usage data on an output device (Specification 3:7-8; 9:5-10:8). The statistical usage data is adapted to allow the end user to determine a best time to contact the target user for a messaging session by providing a plurality of data regarding the target user's times for signing in and signing out (Specification 8:14-23), the target user's average time signed on each day (FIG. 8; Specification 9:23-10:2), and the target user's messages sent and received (FIG. 9; Specification 9:23-10:2).

Claim 11

Claim 11 is for a computer readable memory for causing a computer to identifying optimal times for an end user to contact a target user of a messaging system (Specification 7:1-20). The computer readable memory comprises a computer readable storage medium (Specification 7:6-9); a computer program stored in the storage medium (Specification 7:6-9) so configured by the computer program, that it causes the computer to detect messaging system

events (*e.g.*, FIG. 3, element 310; Specification 7:21-8:13); record (FIG. 3, element 350; Specification 7:21-8:13) the messaging system events in a database (FIG. 3, element 360; Specification 3:7; 7:21-9:4); compile (FIG. 5, element 450; Specification 9:5-10:8) the target user's statistical usage data (e.g., the data illustrated in FIG. 4; *see* Specification 8:14-8:4) from the messaging system events in the database (Specification 8:14-9:4; 9:21-10:4); and display the target user's statistical usage data on an output device (Specification 10:4-5). The statistical usage data is adapted to allow the end user to determine a best time to contact the target user for a messaging session by providing a plurality of data regarding the target user's times for signing in and signing out (Specification 8:14-23), the target user's average time signed on each day (FIG. 8; Specification 9:23-10:2), and the target user's messages sent and received (FIG. 9; Specification 9:23-10:2).

Claim 21

Claim 21 is to a method of identifying optimal times for an end user to contact a target user of a messaging system (Specification 7:1-20). The method comprises detecting messaging system events (*e.g.*, FIG. 3, element 310; Specification 7:21-8:13), recording (FIG. 3, element 350; Specification 7:21-8:13) the messaging system events in a database (FIG. 3, element 360; Specification 3:7; 7:21-9:4), compiling (FIG. 5, element 450; Specification 9:5-10:8) statistical usage data from the messaging system events (Specification 8:14-9:4; 9:21-10:4), and displaying the target user's statistical usage data on an output device (Specification 10:4-5). The statistical usage data is adapted to allow the end user to determine a best time to contact the target user for a messaging session by providing a plurality of data regarding the target user's times for signing in and signing out(Specification 8:14-23), the target user's average time signed on each day

Attorney Docket No. AUS920030365US1
Serial.No. 10/626,194

(FIG. 8; Specification 9:23-10:2), and the target user's messages sent and received (FIG. 9;

Specification 9:23-10:2).

Respectfully submitted,

Rudolf O. Siegesmund
Registration No. 37,720
Gordon & Rees LLP
Suite 2800
2100 Ross Avenue
Dallas, Texas 75201
214-231-4703
214-461-4053 (fax)
rsiegesmund@gordonrees.com